

SENATE BILL No. 257

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-13.

Synopsis: Parental leave for school conferences. Requires the employer of a parent to provide paid leave to the parent for school conferences when the conferences cannot be scheduled during the employee's nonworking hours.

Effective: Upon passage; July 1, 2007.

Errington

January 8, 2007, read first time and referred to Committee on Education and Career Development.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 257

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 22-2-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 13. Parental Leave for School Conferences

Sec. 1. As used in this chapter, "child" means an individual:

(1) who is:

(A) the biological child;

(B) the adopted child;

(C) the foster child;

(D) the stepchild; or

(E) the ward;

of an employee; and

(2) who is enrolled in a school in:

(A) Indiana; or

(B) a state that shares a common boundary with Indiana.

Sec. 2. As used in this chapter, "commissioner" refers to the commissioner of labor.



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1 **Sec. 3. (a) As used in this chapter, "employee" means an**
 2 **individual who:**

3 **(1) has been employed for at least twelve (12) months by an**
 4 **employer from whom the leave is requested under this**
 5 **chapter; and**

6 **(2) has worked an average number of hours per week equal to**
 7 **at least seventy-five percent (75%) of a full-time equivalent**
 8 **position as defined:**

9 **(A) in a bona fide agreement between the employer and the**
 10 **employee;**

11 **(B) by the employer's personnel policies or practices; or**

12 **(C) in a negotiated collective bargaining agreement or**
 13 **settlement agreement.**

14 **(b) The term does not include an independent contractor.**

15 **Sec. 4. As used in this chapter, "employer" means:**

16 **(1) an individual;**

17 **(2) a partnership;**

18 **(3) an association;**

19 **(4) a limited liability company;**

20 **(5) a corporation;**

21 **(6) a business trust;**

22 **(7) the state;**

23 **(8) a municipal corporation (as defined in IC 36-1-2-10); or**

24 **(9) a nonprofit organization;**

25 **that employs at least twenty (20) employees for each working day**
 26 **during each of twenty (20) or more calendar weeks in the current**
 27 **or preceding calendar year.**

28 **Sec. 5. As used in this chapter, "school" means any of the**
 29 **following:**

30 **(1) An elementary or a secondary school maintained by:**

31 **(A) a public school corporation (as defined in**
 32 **IC 20-18-2-16); or**

33 **(B) a charter school (as defined in IC 20-24-1-4).**

34 **(2) A nonpublic school (as defined in IC 20-18-2-12) that is**
 35 **accredited under IC 20-19-2-8.**

36 **(3) A child care center (as defined in IC 12-7-2-28.4) that is**
 37 **operated by a provider licensed under IC 12-17-2-4.**

38 **(4) A preschool organization offering a preschool program (as**
 39 **defined in IC 20-20-28-3) that is not part of a public school**
 40 **corporation or a nonpublic school.**

41 **Sec. 6. An employee is entitled to take paid leave totaling not**
 42 **more than twenty (20) hours in any twelve (12) month period to**

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1 attend school conferences or other school activities directly related
 2 to the educational advancement of a child when the conferences or
 3 activities cannot be scheduled during the employee's nonwork
 4 hours.

5 Sec. 7. The leave described in section 6 of this chapter is subject
 6 to the following conditions:

7 (1) The employee and the employer shall make a reasonable
 8 effort to schedule the leave at a mutually convenient time so
 9 as not to unduly disrupt the employer's operations.

10 (2) The employer may require an employee to submit a
 11 written request for the leave at least seven (7) days before the
 12 time desired for the leave. When the need for the leave is not
 13 reasonably foreseeable, the employee shall give as much
 14 notice as is practicable.

15 (3) Whenever both parents of a child are employees of the
 16 same employer at the same work site, the employee who first
 17 requests leave to attend a child's school activity is the
 18 employee entitled to the leave under section 6 of this chapter.
 19 The employer may grant a second employee's request for
 20 leave to attend the same school activity for the same child only
 21 if the second employee's leave can be scheduled so as not to
 22 unduly disrupt the employer's operations.

23 (4) The employer may require the employee to furnish a
 24 written verification from the child's school that the employee
 25 attended the conference or other activity at the school during
 26 the time of the leave. If an employer requires an employee to
 27 submit a verification, the employee:

28 (A) shall submit the verification not later than three (3)
 29 working days after the date of the school visitation; or

30 (B) if the employee does not comply with clause (A), is
 31 subject to the employer's standard discipline imposed for
 32 an unexcused absence from work.

33 Sec. 8. A notice in a form approved by the commissioner setting
 34 forth the rights of employees under this chapter must be
 35 conspicuously and continuously posted by the employer in the area
 36 in which employees are routinely employed or disseminated to the
 37 employees in a manner reasonably intended to give notice.

38 Sec. 9. A person may not discharge or otherwise discriminate
 39 against a person who does any of the following:

40 (1) Files a complaint, institutes a proceeding, or causes
 41 another person to file a complaint or institute a proceeding
 42 concerning the rights and duties under this chapter.

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(2) Assists or intends to assist in an investigation or a proceeding concerning the rights and duties under this chapter.

(3) Testifies or intends to testify in an investigation or a proceeding concerning the rights and duties under this chapter.

Sec. 10. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 11. The commissioner shall enforce this chapter.

Sec. 12. (a) A person who is aggrieved by an alleged violation of this chapter may file a written complaint with the commissioner not later than thirty (30) days after the earlier of the date that the person discovers or should have discovered the violation.

(b) If a complaint is filed with the commissioner under subsection (a), the commissioner shall investigate the complaint and attempt to informally resolve the complaint.

(c) If a dispute is not informally resolved within one hundred twenty (120) days after the commissioner receives the complaint, the commissioner shall initiate a proceeding under IC 4-21.5-3-6 and adjudicate the complaint under IC 4-21.5-3. The commissioner shall join the complainant and each person who is alleged to have committed a violation under this chapter as parties to the proceeding. Unless the parties to the proceeding agree to a later date or the interests of justice require, the presiding officer in the proceeding shall schedule a hearing on the complaint to be held not later than one hundred eighty (180) days after the commissioner receives the complaint.

Sec. 13. The commissioner may issue any reasonable order to remedy a violation under this chapter. The order may include the following:

(1) An order that the employee be reinstated in the position or an equivalent position that the employee held before taking the leave described in this chapter.

(2) A requirement that the employer reimburse the employee for compensation and benefits lost as a result of the violation.

(3) A requirement that the employer pay the employee for the reasonable attorney's fees incurred to bring the complaint and participate as a party in the informal and formal proceedings under this chapter.

(4) A requirement that the employer pay a civil penalty to the employee in an amount not to exceed one thousand dollars (\$1,000).

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1 **Sec. 14. (a) This chapter does not prohibit the employee from**
 2 **taking leave granted under any of the following:**

3 **(1) Another law.**

4 **(2) A bona fide agreement between the employee and**
 5 **employer or a representative of the employee and the**
 6 **employer.**

7 **(3) A policy of the employer.**

8 **(b) This chapter does not prohibit an employer from providing**
 9 **school visitation benefits in addition to the requirements of this**
 10 **chapter.**

11 **SECTION 2. [EFFECTIVE JULY 1, 2007] IC 22-2-13, as added**
 12 **by this act, does not excuse noncompliance with a provision of a**
 13 **collective bargaining agreement or other employment benefit**
 14 **program or plan in effect on July 1, 2007, that is not in substantial**
 15 **conflict with IC 22-2-13, as added by this act. IC 22-2-13, as added**
 16 **by this act, does not justify an employer reducing employment**
 17 **benefits provided by the employer that exceed the benefits required**
 18 **by IC 22-2-13, as added by this act.**

19 **SECTION 3. [EFFECTIVE UPON PASSAGE] (a)**
 20 **Notwithstanding IC 22-2-13-10, as added by this act, the**
 21 **commissioner of labor shall carry out the duties imposed upon the**
 22 **commissioner under IC 22-2-13-10, as added by this act, under**
 23 **interim written guidelines approved by the commissioner of labor.**

24 **(b) This SECTION expires on the earlier of the following:**

25 **(1) The date rules are adopted under IC 22-2-13-10, as added**
 26 **by this act.**

27 **(2) July 1, 2008.**

28 **SECTION 4. An emergency is declared for this act.**

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